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| 10/597,618 | 08/01/2006 | Wilhelmus Franciscus Fontijn | NL040114 | 3865 |

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| EXAMINER | |
|---|---|
| KING, JOHN B | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2435 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/597,618 | FONTIJN, WILHELMUS FRANCISCUS | |
| | Examiner | Art Unit | |
| | John B. King | 2435 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *01 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,3-8 and 10-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-8 and 10-12* is/are rejected.

7)☐ Claim(s) *11 and 12* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 March 2008* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1. The instant application having Application No. 10/597618 filed on August 1, 2006 is presented for examination by the examiner.

### *Oath/Declaration*

2. The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in **37 C.F.R. 1.63.**

### *Drawings*

3. The applicant's drawings submitted are acceptable for examination purposes.

### *Priority*

4. As required by **M.P.E.P. 201.14(c)**, acknowledgement is made of applicant's claim for priority based on applications filed on February 5, 2004 (EP 04100418.5).

### *Examiner Notes*

5. Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### *Claim Objections*

6. **Claims 11-12** are objected to because of the following informalites:

7. As per claims 11 and 12, the examiner believes that the limitation "the receiving means" in claims 11 and 12 and "the means for receiving" in claim 8 are the same. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. **Claims 1, 5, 8, and 10-12** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claims 1 and 8 recite the limitation "the received information broadcast". There is insufficient antecedent basis for this limitation in the claims. The examiner will interpret "the received information broadcast" as "the information transmission".

11. Claim 5 recites the limitation "said separate channels". There is insufficient antecedent basis for this limitation in the claim. The examiner will interpret the claim as being dependent on preceding claim 4.

12. Claims 8 and 10-12 recite many limitations using the phrase "means for", but it is modified by some structure, material, or acts recited in the claims. It is unclear whether

the recited structure, material or acts are sufficient for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph.

If applicant wishes to have the claim limitations treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that the phrase "means for" or "step for" is clearly **not modified** by sufficient structure, material, or acts for performing the claimed function.

If applicant does not wish to have the claim limitations treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not be a means (or step) plus function limitation (e.g., deleting the phrase "means for" or "step for").

13. The examiner has cited particular examples of 35 U.S.C. 112 rejections above. It is respectfully requested that, in preparing responses, the applicant check the claims for further 35 U.S.C. 112 rejections as being indefinite in case it was inadvertently missed by the examiner. The following prior art rejections are based upon the examiner's best interpretation of the claims.

### *Claim Rejections - 35 USC § 102*

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. **Claims 1, 6, 7, 8 and 12** are rejected under 35 U.S.C. 102(e) as being anticipated by Norr (US Patent 7085377, filed July 30, 1999).

As per claim 1, Norr discloses A method of acquiring content from an information transmission (101), the method comprising the steps of: receiving (102) the information transmission comprising a first content and an encrypted second content, which second content is a digitally storable copy of the first content **(Norr, col. 2 lines 1-30, teaches the user receiving an encrypted and unencrypted form of an audio signal.)**; extracting the encrypted second content comprised in the information transmission when a receiver (103) of the information transmission effects an extracting operation **(The Instant Application page 4 lines 5-11 teaches extracting a signal as downloading and storing the signal on a storage device. Norr, col. 2 lines 1-30, teaches the encrypted second content being received and stored on a storage device by the user and later decrypted and listened to by the user.)**; storing the encrypted second content at the receiver **(Norr, col. 2 lines 1-30, teaches the user storing both the encrypted and unencrypted forms of the audio signal.)**; extracting a first decryption key, which is comprised in the received information broadcast (102) **(Norr, col. 2 lines 1-30, teaches that the decryption key may be provided to the user in the form of a download or transmitted with the audio signals.)**, for decrypting the encrypted second content; and enabling decryption of the encrypted

second content, whereby the second content is made renderable **(Norr, col. 2 lines 1-30, teaches the user decrypting the audio signal and listening to the signal.)**

As per claim 6, Norr discloses The method according to claim 1 **[See rejection to claim 1 above]** wherein the first content and the encrypted second content are received on the same channel **(Norr, col. 2 lines 1-30, teaches the use of an IBOC DAB (In Band On Channel Digital Audio Broadcast), which is well known in the art to provide for the transmission of multiple signals on a single channel. See Patent 5757854 col. 1 lines 8-13.)**

As per claim 7, Norr discloses The method according to claim 1 **[See rejection to claim 1 above]**, wherein the information transmission (101) is an information broadcast **(Norr, col. 2 lines 1-30, teaches the use of DAB, which is Digital Audio Broadcasting.)**

16. Claims 8 and 12 are substantially similar or obvious variations of claims 1 and 6 and therefore are rejected for the same reasons as set forth above.

### *Claim Rejections - 35 USC § 103*

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was made.

18. **Claims 4-5 and 11** as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Norr in view of Kellner et al. (US Pre-Grant Publication 2003/008442 A1 filed November 1, 2001) hereinafter referred to as Kellner.

As per claim 4, Norr discloses the method according to claim 1 **[See rejection to claim 1 above]**.

However, Norr does not specifically teach the content being transmitted on separate channels.

Kellner discloses wherein the first content and the encrypted second content are received on separate channels **(Kellner, Figures 1A and 2A, teach broadcasting multiple signals on multiple channels such as audio and video channels.)**

Norr and Kellner are analogous art because they are from the same field of endeavor of transmitting data to users.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Norr by adding the teachings of Kellner because this would allow for multiple signals to be transmitted on multiple channels, which is how multiple signals were transmitted before IBOC was developed. If the multiple channels were used in conjunction with IBOC that could more than double the amount of signals being transmitted in a given set of channels.

As per claim 5, Norr in view of Kellner discloses The method according to claim 4 **[See rejection to claim 4 above]** wherein the first content and the encrypted second

content are coordinated with each other on said separate channels **(Kellner, paragraph 29, teaches that the corresponding audio and video channels must be synchronized to preserve the proper correspondence between the dialog and the video.)**

19. Claim 11 is substantially similar or an obvious variation of claims 4-5 and therefore is rejected for the same reasons as set forth above.

20. **Claims 3 and 10** as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Norr in view of Richards (US Patent 6069957, published May 30, 2000).

As per claim 3, Norr discloses The method according to claim 1 **[See rejection to claim 1 above].**

However, Norr does not teach the first decryption key being encrypted.

Richards discloses wherein said first decryption key is encrypted and the method further comprises the step of: acquiring, from a content provider, a second decryption key for decrypting the encrypted first decryption key **(Richards, col. 1 lines 24-31, teaches one key being used to decrypt another key.)**

Norr and Richards are analogous art because they are from the same field of endeavor of broadcast communications.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Norr by adding the teachings of Richards

because this would increase the security of the system by encrypting the decrypting key before transmission to prevent unauthorized retrieval of the decrypting key. It is also well known in the art to encrypt a key and use a second key to decrypt the first key.

21. Claim 10 is substantially similar or an obvious variation of claims 3 and therefore is rejected for the same reasons as set forth above.

## ***Conclusion***

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. King whose telephone number is (571)270-7310. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM est..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571)272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JBK/
/Kimyen Vu/
Supervisory Patent Examiner, Art Unit 2435